

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

200411



IN THE MATTER OF

ACCUTREAT FILMS, INC.
ALFA INK & CHEMICAL CORP.
AMERICAN CAN CO.
AUTOMATION COMPONENTS, INC.
AVERY LABEL CO.
BASF WYANDOTTE CORP.
BORDEN, INC.
CHEM SYSTEMS, INC.
COLGATE-PALMOLIVE COMPANY
DAYCO CORPORATION
DURALAC, INC.
ELECTROID CO.
ENGELHARD CORP.
FABERGE, INC.
GENERAL HOSE PRODUCTS, INC.
HEXCEL FINE ORGANICS, INC.
KIRKER CHEMICAL COMPANY
KNOMARK, INC.
MAAS & WALDSTEIN CO.
MARISOL, INC.
MORTON THIOKOL, INC.
PARA PRINT PLATE CO.
PRESTO LOCK CO., INC.
PUBLIC SERVICE ELECTRIC & GAS CO.
PYROLAC CORP.
RELIANCE UNIVERSAL, INC.
STAR-GLO INDUSTRIES
TOLAS CORPORATION
WILLIAMSON & CO.

Respondents.

Proceeding Pursuant to §106 of
the Comprehensive Environmental
Response, Compensation and
Liability Act, 42 U.S.C. §9606

ADMINISTRATIVE ORDER
ON CONSENT
Index No. II-CERCLA-60103

SCP-N 01855

JURISDICTION

1. THIS ORDER IS ISSUED to the above-captioned Respondents by the United States Environmental Protection Agency (EPA) pursuant to the authority vested in the President of the United States by §106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9606(a), delegated to the Administrator of the EPA by Executive Order 12316, 46 Fed. Reg. 42237 (August 20, 1981), and duly redelegated to the Regional Administrator, EPA Region II on March 17, 1983. Notice of this Order has been given to the State of New Jersey, Department of Environmental Protection as required by 42 U.S.C. §9606(a).

DEFINITIONS

2. As used in this Order, unless otherwise clearly required by context, the following terms shall have the following meanings:

A. EPA shall mean the United States Environmental Protection Agency.

B. DEP shall mean the New Jersey Department of Environmental Protection.

C. Respondents shall include, jointly and severally, all individuals, companies, partnerships, or other business entities listed in the caption of this Order.

D. Prior Respondents shall include all Respondents named in the caption of Administrative Order Index No. II-CERCLA-50106 and Administrative Order Index No. II-CERCLA-50109.

E. Generator Respondents shall include all Respondents.

F. Transporter Respondents shall include any Respondents listed who engaged in the offsite transportation of hazardous substances by air, rail, highway, water, etc. to the facility.

G. Owner/Operators shall include Leif R. Sigmond and Dominick Presto (individually and as a partnership), Scientific Chemical Processsing, Inc., Presto, Inc., and Energall, Inc.

H. The Facility shall mean real property located at 411 Wilson Avenue, Newark, Essex County, New Jersey and believed to occupy Block 5020, Lot 98 on the tax map of Essex County, City of Newark.

I. CERCLA shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq., P.L. 96-510.

J. Hazardous Substance shall mean any substance that falls within the definition of "Hazardous Substance" as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

K. Immediate Corrective Actions shall include the actions required of the Respondents by this Administrative Order.

L. Designated Coordinator shall mean the person designated by Respondents which person shall be charged with the duty of, at all times, being knowledgeable about and overseeing the progress of all work performed pursuant to this Order.

M. On-Scene Coordinator (OSC) shall mean the person designated by EPA to be responsible for on-scene monitoring of all actions and activities required pursuant to this Order. The OSC shall additionally be responsible for coordinating and directing any EPA immediate removal, as defined in the National Contingency Plan, which may be conducted at the Facility.

N. National Contingency Plan (NCP) shall mean the National Oil and Hazardous Substances Contingency Plan promulgated by EPA pursuant to §105 of CERCLA, 42 U.S.C. §9605, and codified at 40 C.F.R. Part 300, and all amendments or modifications thereto.

O. "Removal Action" shall have the meaning set forth in the portion of the NCP found at 40 CFR §300.6.

PARTIES BOUND

3. This Order shall apply to and be binding on all Respondents, both jointly and severally, as well as on their heirs, successors, and assigns.

FINDINGS

4. Respondents are persons, as defined in §101(21) of CERCLA, 42 U.S.C. §9601(21), and responsible parties within the intent of §107(a) of CERCLA, 42 U.S.C. §9607(a).

5. The real property located at 411 Wilson Avenue, Newark, New Jersey, is a Facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

6. Between 1975 and 1980, the Owner/Operators engaged in businesses offering to the public waste transfer, storage, reprocessing, reclamation, blending and treatment services for hazardous substances.

7. From 1975 to 1980, the Owner/Operators owned the facility and/or operated businesses at the facility which engaged in the transfer, storage, reprocessing, reclamation, blending, treatment, and/or the disposal of hazardous substances.

8. At different times between 1975 and 1980, the Generator Respondents made arrangements with Scientific Chemical Processing, Inc., Presto, Inc., and/or Energall, Inc. for the transport, storage, treatment or disposal of hazardous substances, including those presently being released and/or in danger of being released from the Facility to the environment.

9. At different times between 1975 and 1980, Transporter Respondents accepted hazardous substances for transport to the Facility.

10. On June 12, 1980, the New Jersey Supreme Court ordered that Scientific Chemical Processing, Inc., Presto, Inc., and Energall, Inc. immediately cease all solid waste disposal operations at the facility. At that time, the Facility contained various chemical wastes stored in tanks, drums, and truck trailers.

11. Between 1979 and 1984, DEP inspections at the Facility, and sampling and chemical analyses by the Owners/Operators, and environmental surveys conducted at the Facility have indicated that hazardous substances being released into

the environment from the facility have contaminated, or threaten to contaminate air, soil, and water.

12. On January 10, 1985, DEP requested that EPA take appropriate action at the Facility to prevent and/or mitigate an immediate and significant risk of harm to human health and/or the environment.

13. Based on an initial waste inventory conducted at the Facility in July 1985, there are approximately 4868 55-gallon drums at the Facility (of which approximately 1819 are stored inside a warehouse building and 3049 are stored in the yard outside) and 53 tanks, vessels and/or trailers (of which 33 are located outside of buildings).

14. Many of the drums stored inside the warehouse are clearly labelled; labels indicate the presence of a variety of hazardous substances including, but not limited to, waste plating solutions, PCB-contaminated fuel blends, pesticides, still bottoms, and residues of combined halo-hydrocarbon distillations (e.g., trichloroethylene, perchloroethylene, carbon tetrachloride, methylene chloride).

15. Based upon information made available to DEP, many of the drums at the Facility contain toluene, ethyl acetate, trichloroethylene, isopropanol, mixed solvents, phenolic resins, paint and paint pigments, and acryloid coatings.

16. According to DEP inspection reports, there are approximately 100 drums at the Facility packed with bottles of laboratory chemicals.

17. Over 1700 drums at the Facility are labelled with

manifest numbers corresponding to DEP hazardous waste manifests. Examination of these manifests revealed that these drums contain numerous hazardous substances including but not limited to: halogenated organic solvents, mixed solvents, trichloroethane, and methylene chloride.

18. There are at least 9 leaking and corroding tank trailers situated at the Facility. Based upon information made available to DEP, said tank trailers contain large quantities of "fuel blend", fuel oil and/or mixed organic solvents containing ketones, alcohols, esters, and aliphatic and aromatic hydrocarbons of various concentrations, together with other unknown materials.

19. According to DEP inspection reports, there are at the Facility approximately 30 mixing vessels and/or bulk storage tanks containing thousands of gallons of oil, perchloroethylene, fuel blend, bottoms, "raw chlorinated materials", chlorinated still bottoms, and solvent solutions containing ketones, alcohols, esters, aromatic and aliphatic hydrocarbons and fuel resins.

20. Sampling of tanks at the Facility in August 1982, and August 1984 showed that they contain polychlorinated biphenyls (PCBs). Eight of ten samples collected contained PCBs in excess of 100 parts per million; two of those eight samples contained PCBs at 671 and 716 ppm.

21. Representatives of the Newark Fire Department visited the Facility at least ten times between April 1982 and March 1983. All of these inspections revealed continually

worsening conditions at the Facility; specifically, reports noted the presence of rusting tank trucks and corroding drums leaking their contents onto the ground.

22. On each of the inspections, Fire Department representatives noted six Fire Code violations at the Facility, including an inoperative sprinkler system, defective and improper installation of electrical wiring, and the improper storage of flammable and hazardous chemicals.

23. On January 18, 1983, the Newark Fire Department randomly sampled drums at the Facility. Analyses showed the contents of various drums to be highly flammable; four out of ten drums sampled exhibited flash points of 70°F. The three tanks sampled were found to contain flammable liquids. In addition, some of the drums sampled were found to contain highly corrosive materials, one exhibiting a pH of 2.0 and another a pH of 14.0.

24. Many of the substances referred to in the preceding paragraphs including but not limited to carbon tetrachloride, ethyl acetate, methylene chloride, phenolic resins, toluene, trichloroethane, trichloroethylene, PCBs, and flammable and corrosive materials are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C §9601(14).

25. Although the property is fenced, it is normally unoccupied (except during the recent corrective actions at the Facility; see paragraph 33, below), and there has been a threat of trespassers and vandals entering the Facility and, conse-

quently, a threat of direct contact with hazardous substances. The warehouse shows signs of vandalism; most of the plumbing fixtures have been stripped from the building.

26. The leaking containers threaten to contaminate groundwater since the gravel bed in the yard is highly permeable. There are visibly contaminated areas at the Facility.

27. A fire at the Facility involving some substances listed in paragraphs 14, 15, 17, 18, and 19, supra, could result in creation of toxic by-products. For example, in a fire, PCBs may form chlorinated dibenzofurans and dioxins. One such chlorinated dioxin is 2,3,7,8-tetrachlorodibenzo-p-dioxin, one of the most acutely toxic substances known.

28. Should such a fire or explosion occur, a toxic cloud could immediately threaten three major arterial highways, approximately 200 employees in work places adjacent to the Facility, and a residential area with a population of 25,000 located within one mile of the Facility.

29. As a result of a site visit on January 30, 1985, staff of the Center for Disease Control (CDC) has recommended that this Facility be formally certified as an immediate and significant threat to the public health.

30. Hazardous substances threaten to continue to be released from the Facility into the environment absent the taking of immediate corrective actions at the Facility. Immediate corrective actions are appropriate at the Facility to prevent and/or mitigate immediate and significant risk of harm to human health and/or the environment.

31. On or about March 29, 1985, EPA entered into an agreement with 70 generators, transporters and owners/operators, who are persons as defined in §101(21) of CERCLA, 42 U.S.C. §9601(21), and responsible parties within the intent of §107(a) of CERCLA, 42 U.S.C. §9607(a), which provided for immediate corrective measures to be undertaken at the Facility in accordance with a Consent Order (Index No. II-CERCLA-50106) which was issued pursuant to Section 106 of CERCLA, 42 U.S.C. §9606, and which embodied this agreement.

32. On or about April 3, 1985, EPA issued a unilateral Order (Index No. II-CERCLA-50109) pursuant to §106(a) of CERCLA naming 42 additional generators, transporters and owners/operators as respondents responsible for the implementation of certain corrective actions to protect the public health, welfare and the environment and requiring these unilateral Order respondents to fully participate in the efforts of, and cooperate with, the Consenting Parties to Order No. II-CERCLA-50106.

33. Pursuant to Administrative Orders No. II-CERCLA-50106 and No. II-CERCLA-50109, corrective actions at the facility to protect the public health, welfare and the environment have now commenced.

34. The foregoing FINDINGS have been made by EPA. By consenting to this Order, or by taking any actions under this Order, Respondents do not concede the correctness of any fact alleged in the foregoing findings or elsewhere in this Order. This Order shall not be construed in any way as an admission of any fact or liability by Respondents. It is the

intention of the parties that Respondents not be collaterally estopped in any other case with EPA (other than in an action by EPA to enforce the terms of this agreement) or any other governmental agency, or any other person, based on the findings contained herein.

DETERMINATION

Based upon the FINDINGS set forth above and the entire administrative record, EPA has determined that the release and threat of release of hazardous substances to the environment from the Facility may present an imminent and substantial endangerment to the public health, welfare, and the environment within the meaning of §106(a) of CERCLA, 42 U.S.C. §9606(a).

ORDER

Based upon the foregoing FINDINGS and DETERMINATION, IT IS HEREBY ORDERED that to protect the public health, welfare and the environment, it is necessary that certain actions be taken to abate the release and threat of release of hazardous substances at and from the Facility into the environment.

IT IS HEREBY ORDERED AND AGREED that Respondents shall undertake corrective actions at the facility in accordance with the directives and schedule specified below. All activities set forth below shall be initiated and completed as soon as possible even though maximum time periods for their completion are specified herein.

In carrying out any and all activities required of Respondents

under the terms of this Order, Respondents shall fully participate in the efforts of, and cooperate with, the Prior Respondents which include all respondents named in the caption of the above-referenced Consent Order, Index No. II-CERCLA-50106, and the unilateral Order, Index No. II-CERCLA-50109.

Description of Work

35. On the effective date of this Order, Respondents shall join with the Prior Respondents in implementing the corrective actions described below.

36. Such steps as are required to prevent unauthorized access to the facility have already been taken by Prior Respondents. Such security shall be maintained until the completion of work conducted pursuant to this Order.

37. Prior Respondents have proceeded to secure any leaking containers and any containers in imminent danger of leaking, by means approved by the EPA Region II On-Scene Coordinator (OSC).

38. Prior Respondents have submitted to EPA a Detailed Work Plan with respect to accomplishing the following:

a. Proper off-site disposal of all drums and their contents.

b. Proper disposition of all tanks, rolloff containers, trailers, laboratory bottles and any other vessels and containers on the property, and their contents, and,

c. Excavation and proper disposal of all visibly contaminated soils and other surfaces which exist on the

property.

d. Removal of all visible, uncontainerized hazardous substances puddled, caked, or otherwise collected on the floors or grounds of the Facility.

The Detailed Work Plan included, but was not limited to, the following:

1. a detailed time schedule for performance of the specific tasks set forth in this Order and a detailed description of how these tasks will be accomplished,
2. a map or sketch depicting all sampling locations and the number and types of samples to be obtained at each sampling location,
3. the overall site operations plan for performance of tasks specified in this Order, including identification of (or provision for later advance identification of) contractors and subcontractors and their respective responsibilities,
4. a health and safety plan,
5. a contingency plan for conducting site activities, and
6. the performance of a complete inventory of containers of all chemicals, waste materials, and hazardous substances known or suspected to be present at the facility and an estimate of volumes contained therein.

This Detailed Work Plan was submitted to the Regional Administrator, EPA Region II, with copies sent to the OSC and to the

Chief, Site Investigation and Compliance Branch, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, Attention: Ms. Janet Feldstein, Environmental Engineer.

39. The Detailed Work Plan has been approved by the EPA and implementation of this plan has commenced. This plan shall be deemed incorporated into this Order.

40. The contents of all tanks and bulk containers present at the Facility have been sampled as necessary for proper handling and disposal. Chemical analyses are presently being performed on these samples. Where inspection of these contents reveals several phases to be present, e.g., sludge, aqueous, oil, each phase shall be sampled individually.

41. Samples from representative drums and bottles have been taken and analyzed as in paragraph 40, supra. Such sampling has been performed under the direction of and subject to the approval of the OSC.

42. Visibly contaminated soil shall be sampled and analyzed as in paragraph 40, supra. Final determination of what constitutes visibly contaminated soil will be made by the OSC.

43. All work pursuant to this Order shall be completed as soon as possible but in no event later than six months after the commencement of work under the EPA-approved work plan unless specifically approved by EPA in writing.

Designated Coordinator, On-Scene Coordinator, Other Personnel, and Modifications to EPA-Approved Work Plan

44. Prior Respondents have selected a coordinator,

to be known as the Designated Coordinator, and submitted the name, address, and telephone number of the Designated Coordinator to the EPA On-Scene Coordinator. The Designated Coordinator shall be responsible for oversight of the implementation of this Order. All EPA correspondence to the Respondents shall be sent to the Designated Coordinator, with a copy to one other person designated by the Respondents. (The name, address, and telephone number of the current EPA Region II On-Scene Coordinator is: Mr. Peter Capitano, On-Scene Coordinator, Response and Prevention Branch, EPA Region II, Woodbridge Avenue, Edison, New Jersey 08817, 201-321-6664. EPA will notify the Designated Coordinator if EPA's On-Scene Coordinator should change.)

45. All activities required of Respondents under the terms of this Order shall be performed only by well-qualified persons possessing all necessary permits, licenses, and other authorizations required by federal, state, and local governments.

46. In the event of an inability or anticipated inability on the part of Respondents, or any of them, to perform or to timely perform any of the activities required under the Order, the Designated Coordinator shall immediately inform the EPA of the reason for, and date and length of such inability to perform and the actions taken or to be taken by Respondents, or any of them, to avoid or mitigate the impact of such inability to perform, including the proposed schedule for such actions.

47. As appropriate during the course of implementation of the immediate corrective actions at the Facility, Respondents or their consultants or contractors, acting through the Designated Coordinator, may confer with the EPA concerning those

(whose address appeared above in paragraph 44).

Access and Availability of Data

51. Unimpeded access to the Facility shall be provided by the Owners/Operators to EPA, DEP, and Respondents complying with this Order as well as to their respective representatives, agents, employees, contractors, and consultants. The Owners/Operators shall permit such persons to be present on the Facility at any and all times and to observe any and all activities conducted pursuant to this Order. EPA and DEP representatives or agents shall also have unimpeded access to any portion of or structure at the Facility.

52. EPA and DEP shall have full access to all records, including but not limited to contractual documents, maintained or created by Respondents or their contractors or consultants in connection with implementation of the work under this Order.

53. In addition, all data, information, and records in connection with the implementation of work under this Order, shall, without delay, be available to EPA on request, and all employees of all persons, including contractors, who engage in activity under this Order shall be available to and shall cooperate with the United States and/or EPA. No data, information, or records shall be destroyed for eight years without either the express written approval of EPA or a written offer by the Respondents to provide such material to EPA, followed by EPA's written rejection of that offer.

54. Upon request by the EPA, Respondents shall provide split samples of any material sampled in connection with imple-

mentation of this Order.

General Provisions

55. All actions and activities carried out by Respondents pursuant to this Order shall be done in accordance with all applicable federal, State, and local laws, regulations, and requirements.

56. All waste disposal conducted by Respondents pursuant to this Order shall comply with all requirements of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6901 et seq., the Toxic Substances Control Act (TSCA), 15 U.S.C. §2601 et seq., and all regulations promulgated pursuant thereto, as well as all applicable State laws and regulations.

57. All sampling and analyses shall conform to EPA Quality Assurance/Quality Control procedures as directed by the EPA and in conformance with Section 10 of the EPA publication entitled "Test Methods for Evaluating Solid Waste" (SW-846 July 1982 or as updated).

58. Neither EPA nor the United States, by issuance of this Order, assumes any liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or any of them, or Respondents' employees, agents, contractors, or consultants in carrying out any action or activity pursuant to this Order; nor shall EPA or the United States be held as a party to any contract entered into by Respondents, or any of them, or their officers, employees, agents, contractors, or consultants in carrying out any action or activity pursuant to this Order.

59. Nothing herein shall constitute or be construed as a satisfaction or release from liability with respect to any conditions or claims arising as a result of past, current, or future operations, ownership, or use of the Facility by Respondents, their agents, contractors, lessees, successors, or assigns. Nothing herein shall constitute a finding or admission that Respondents are responsible parties in connection with releases or threatened releases of hazardous substances from the Facility as set forth in the Findings of this Order.

60. Nothing contained in this Order shall affect any right, claim, interest, defense, or cause of action of any party hereto with respect to third parties. Nothing in this Order constitutes a decision on pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C 9611(a)(2).

61. Respondents' activities under this Order shall be performed within the time limits set forth herein unless performance is delayed by events which constitute a force majeure. For purposes of this Order a force majeure is defined as any event arising from causes beyond Respondents' reasonable control. Financial considerations shall not be considered circumstances beyond the control of Respondents. In the event of a force majeure, Respondents shall be obligated to perform the affected activities within a time period which shall not exceed the time provided in this Order together with the period of delay attributed to the force majeure, provided, however, that no deadline shall be extended beyond a period of time that is reasonably necessary. Respondents shall notify EPA in

writing as soon as possible following Respondents' awareness that circumstances constituting a force majeure have occurred or are likely to occur. The burden of proving that a force majeure exists shall rest with the Respondents.

Enforcement

62. Failure of any Respondent to expeditiously and completely carry out the terms of this Order may result in EPA taking the required actions unilaterally, pursuant to §104(a)(1) of CERCLA, 42 U.S.C. §9604(a)(1).

63. If Respondents fail, without prior EPA approval, to adhere to any deadline set forth in paragraphs 35 through 43, inclusive, of this Order, Respondents shall each make payments to the EPA in the amount indicated below for each day of non-compliance:

<u>Days After Required Date</u>	<u>Stipulated Penalties</u>
1 to 5 days	\$0.00
6 to 10 days	\$250.00
11 to 20 days	\$500.00
21 days or more	\$1000.00

Any such penalty shall accrue as of the sixth day after the applicable deadline has passed, and shall be due and payable ten (10) days following receipt of a written demand by EPA or, if no such demand is received, on the thirtieth day following the date the penalty accrues, and shall be due and payable every thirtieth day thereafter. Payment of any such penalty to EPA shall be made by certified check made payable to the

"Hazardous Substances Response Trust Fund", and mailed to the following address with a notation of the docket number of this Order:

U.S. Environmental Protection Agency
Superfund
P.O. Box 371003M
Pittsburgh, PA 15251

64. Violation of this Order as a result of Respondents' failure to comply with any provision herein, including but not limited to any failure to comply with any EPA-approved work plan prepared in compliance herewith, shall be enforceable pursuant to §§106(b) and 113(b) of CERCLA, 42 U.S.C. §§9606(b) and 9613(b). Respondents may also be subject to cost recovery, civil penalties and/or punitive damages as provided in §§106(b), 107(a), and 107(c)(3) of CERCLA, 42 U.S.C. §§9606(b), 9607(a), and 9697(c)(3), for failure to comply with the terms of this Order. Nothing herein shall preclude EPA from taking any additional enforcement actions, and/or additional actions as it may deem necessary for any purpose, including the prevention or abatement of an imminent and substantial danger to the public health, welfare, or the environment arising from conditions at the Facility and recovery of the costs thereof; nor shall anything herein preclude DEP from taking legal action pursuant to State law.

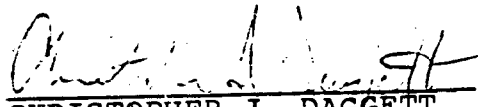
65. Upon full and satisfactory conclusion of all work under this Order, EPA shall certify the same in writing to the Respondents.

Effective Date and Effect of Consent

66. This Order shall become effective on the fourth business day following the date this Order is issued.

67. Respondents' consent to this Order shall not be construed as a waiver of any defenses which Respondents may wish to raise in any other proceedings, and nothing contained in this Order shall constitute an admission by Respondents with respect to any factual or legal matter. However, Respondents agree not to contest the authority or jurisdiction of the Regional Administrator to issue this Order, and also agree not to contest the terms of this Order in any action to enforce its provisions.

U.S. ENVIRONMENTAL PROTECTION AGENCY



CHRISTOPHER J. DAGGETT
Regional Administrator
U.S. Environmental Protection Agency
Region II

December 23, 1985
Date of Issuance